

fications. Such warranty shall apply only with respect to such instances of substantial nonconformity to such approved plans and specifications (including any amendments thereof, or changes or variations therein, which have been approved in writing, as provided in this section, by the Secretary) as to which the purchaser or home owner has given written notice to the warrantor within one year from the date of conveyance of title to, or initial occupancy of, the dwelling, whichever first occurs. Such warranty shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument. The provisions of this section shall apply to any such property covered by a mortgage insured or guaranteed by the Secretary on and after October 1, 1954, unless such mortgage is insured or guaranteed pursuant to a commitment therefor made before October 1, 1954.

(b) The Secretary shall permit copies of the plans and specifications (including written approvals of any amendments thereof, or changes or variations therein, as provided in this section) for dwellings in connection with which warranties are required by subsection (a) of this section to be made available in their appropriate local offices for inspection or for copying by any purchaser, home owner, or warrantor during such hours or periods of time as the Secretary may determine to be reasonable.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1206, § 1805; Pub. L. 94–324, § 7(9), June 30, 1976, 90 Stat. 721; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102–54, § 15(a)(1), June 13, 1991, 105 Stat. 288; renumbered § 3705, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title XII, § 1202(a)(2), Nov. 2, 1994, 108 Stat. 4689.)

Editorial Notes

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–446 made technical correction to directory language of Pub. L. 102–54, § 15(a)(1)(A). See 1991 Amendment note below.

1991—Pub. L. 102–83, § 5(a), renumbered section 1805 of this title as this section.

Subsec. (a). Pub. L. 102–54, § 15(a)(1)(B), substituted “appraisal)” for “approval)” in second sentence.

Pub. L. 102–54, § 15(a)(1)(A), as amended by Pub. L. 103–446, substituted “appraised” for “approved” before “for guaranty” in first sentence.

1989—Pub. L. 101–237 substituted “Secretary” and “Secretary’s” for “Administrator” and “Administrator’s”, respectively, wherever appearing.

1976—Subsec. (a). Pub. L. 94–324 substituted “the Administrator’s” for “his” wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–446, title XII, § 1202(a), Nov. 2, 1994, 108 Stat. 4689, provided that the amendment made by that section is effective June 13, 1991, and as if included in the enactment of Pub. L. 102–54.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–324 effective June 30, 1976, see section 9(a) of Pub. L. 94–324, set out as a note under section 3701 of this title.

§ 3706. Escrow of deposits and downpayments

(a) Any deposit or downpayment made by an eligible veteran in connection with the purchase of proposed or newly constructed and previously unoccupied residential property in a project on which the Secretary has issued a Certificate of Reasonable Value, which purchase is to be financed with a loan guaranteed, insured, or made under the provisions of this chapter, shall be deposited forthwith by the seller, or the agent of the seller, receiving such deposit or payment, in a trust account to safeguard such deposit or payment from the claims of creditors of the seller. The failure of the seller or the seller’s agent to create such trust account and to maintain it until the deposit or payment has been disbursed for the benefit of the veteran purchaser at settlement or, if the transaction does not materialize, is otherwise disposed of in accordance with the terms of the contract, may constitute an unfair marketing practice within the meaning of section 3704(b) of this title.

(b) If an eligible veteran contracts for the construction of a property in a project on which the Secretary has issued a Certificate of Reasonable Value and such construction is to be financed with the assistance of a construction loan to be guaranteed, insured, or made under the provisions of this chapter, it may be considered an unfair marketing practice under section 3704(b) of this title if any deposit or downpayment of the veteran is not maintained in a special trust account by the recipient until it is either (1) applied on behalf of the veteran to the cost of the land or to the cost of construction or (2), if the transaction does not materialize, is otherwise disposed of in accordance with the terms of the contract.

(Added Pub. L. 86–665, § 6(a), July 14, 1960, 74 Stat. 532, § 1806; amended Pub. L. 94–324, § 7(10), June 30, 1976, 90 Stat. 721; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3706 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title XII, § 1201(e)(13), Nov. 2, 1994, 108 Stat. 4685.)

Editorial Notes

AMENDMENTS

1994—Pub. L. 103–446, which directed the substitution of “of this title” for “of this chapter” the second and third places appearing, was executed by making the substitution the second and fourth places appearing to reflect the probable intent of Congress.

1991—Pub. L. 102–83, § 5(a), renumbered section 1806 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted “3704(b)” for “1804(b)” in subsecs. (a) and (b).

1989—Pub. L. 101–237 substituted “Secretary” for “Administrator” wherever appearing.

1976—Subsec. (a). Pub. L. 94–324 substituted “the seller’s” for “his”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–324 effective June 30, 1976, see section 9(a) of Pub. L. 94–324, set out as a note under section 3701 of this title.

§ 3707. Adjustable rate mortgages

(a) The Secretary shall carry out a project under this section for the purpose of guaran-

teeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act.

(b) Interest rate adjustment provisions of a mortgage guaranteed under this section shall—

(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

(2) be made by adjusting the monthly payment on an annual basis;

(3) be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and

(4) be limited, over the term of the mortgage, to a maximum increase of 5 percentage points above the initial contract interest rate.

(c) The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account—

(1) the status of the interest rate index referred to in subsection (b)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

(4) such other factors as the Secretary finds appropriate.

(d) The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first five years of the mortgage term.

(Added Pub. L. 102-547, §3(a)(1), Oct. 28, 1992, 106 Stat. 3634; amended Pub. L. 103-78, §7, Aug. 13, 1993, 107 Stat. 769; Pub. L. 108-454, title IV, §404, Dec. 10, 2004, 118 Stat. 3616; Pub. L. 110-389, title V, §505(a), Oct. 10, 2008, 122 Stat. 4176; Pub. L. 112-154, title II, §208, Aug. 6, 2012, 126 Stat. 1179.)

Editorial Notes

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (a) and (c)(3), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the Act is classified generally to subchapter II (§1707 et seq.) of chapter 13 of Title 12, Banks and Banking. Section 251 of the Act is classified to section 1715z-16 of Title 12. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112-154 substituted “project under this section” for “demonstration project under this section during fiscal years 1993 through 2012”.

2008—Subsec. (a). Pub. L. 110-389 substituted “2012” for “2008”.

2004—Subsec. (a). Pub. L. 108-454 substituted “during fiscal years 1993 through 2008” for “during fiscal years 1993, 1994, and 1995”.

1993—Subsec. (b)(2). Pub. L. 103-78 struck out before semicolon at end “on the anniversary of the date on which the loan was closed”.

Statutory Notes and Related Subsidiaries

ANNUAL REPORT ON DOCUMENT DISCLOSURE AND CONSUMER EDUCATION

Pub. L. 115-174, title III, §309(d), May 24, 2018, 132 Stat. 1351, provided that: “Not less frequently than once each year, the Secretary of Veterans Affairs shall issue a publicly available report that—

“(1) examines, with respect to loans provided to veterans under chapter 37 of title 38, United States Code—

“(A) the refinancing of fixed-rate mortgage loans to adjustable rate mortgage loans;

“(B) whether veterans are informed of the risks and disclosures associated with that refinancing; and

“(C) whether advertising materials for that refinancing are clear and do not contain misleading statements or assertions; and

“(2) includes findings based on any complaints received by veterans and on an ongoing assessment of the refinancing market by the Secretary.”

ANNUAL REPORTS ON ADJUSTABLE RATE MORTGAGES GUARANTEED UNDER THIS SECTION

Pub. L. 102-547, §3(b), Oct. 28, 1992, 106 Stat. 3635, directed Secretary of Veterans Affairs to transmit adjustable rate mortgage report to Committees on Veterans' Affairs of Senate and House of Representatives no later than Dec. 31, 1993, containing description of project carried out under this section and thereafter to transmit annual reports to such committees with respect to default rates and other information concerning loans guaranteed under this section prior to repeal by Pub. L. 104-110, title II, §201(b), Feb. 13, 1996, 110 Stat. 770.

§ 3707A. Hybrid adjustable rate mortgages

(a) The Secretary shall carry out a project under this section for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act in accordance with the provisions of this section with respect to hybrid adjustable rate mortgages described in subsection (b).

(b) Adjustable rate mortgages that are guaranteed under this section shall be adjustable rate mortgages (commonly referred to as “hybrid adjustable rate mortgages”) having interest rate adjustment provisions that—

(1) specify an initial rate of interest that is fixed for a period of not less than the first three years of the mortgage term;

(2) provide for an initial adjustment in the rate of interest by the mortgagee at the end of the period described in paragraph (1); and

(3) comply in such initial adjustment, and any subsequent adjustment, with subsection (c).

(c) Interest rate adjustment provisions of a mortgage guaranteed under this section shall—

(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

(2) be made by adjusting the monthly payment on an annual basis;

(3) in the case of the initial contract interest rate adjustment—

(A) if the initial contract interest rate remained fixed for less than 5 years, be limited